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2  
3 UNITED STATES DISTRICT COURT  
4 DISTRICT OF NEVADA

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6 UNITED STATES OF AMERICA,  
7 Plaintiff,  
8 v.  
9 JAMES HENDERSON, et al.,  
10 Defendants.  
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Case No. 2:16-cr-00265-GMN-CWH

**ORDER**

12 This matter is before the court on defendant James Henderson's ex parte motion filed  
13 under seal (ECF No. 627), on May 16, 2018. Defendant Henderson moves the court to appoint  
14 second CJA counsel to assist in the defense of this case. The court declines to consider  
15 defendant's motion for second counsel on an ex parte basis.

16 The United States Constitution entitles criminal defendants to the assistance of counsel.  
17 US Const. Amend. VI. Accordingly, the Criminal Justice Act directs district courts to appoint  
18 counsel for criminal defendants "financially unable to obtain adequate representation." 18 U.S.C.  
19 § 3006A(a). While there is no constitutional provision entitling a criminal defendant to more than  
20 one attorney, statutory law permits the assignment of learned counsel in limited circumstances.  
21 18. U.S.C § 3005. Learned counsel may be appointed upon the defendant's request, if the  
22 defendant is indicted for treason or a capital crime. *Id.*

23 Defendant argues that the complexity of the case and the amount of discovery warrants  
24 the appointment of a second CJA counsel. Defendant adds that co-defendants enjoy the  
25 assistance of second counsel. The court finds that there is no adequate justification to appoint  
26 another CJA counsel. Defendant Henderson's circumstances are distinguishable from his co-  
27 defendants with second appointed counsel. Out of the twenty-two defendants, only eight have a  
28 second appointed counsel. (ECF Nos. 589-592, 657). Seven of those defendants originally faced

1 the death penalty and the court appointed learned counsel in accordance with 18. U.S.C § 3005.  
2 The court appointed counsel for the remaining defendant for the limited purpose of filing an  
3 interlocutory appeal. (ECF No. 657.) The court will therefore deny defendant's motion to  
4 appoint second counsel.

5 IT IS THEREFORE ORDERED that defendant's ex parte motion filed under seal (ECF  
6 No. 627) is DENIED.

7 IT IS FURTHER ORDERED that the clerk must unseal and docket defendant's ex parte  
8 motion for second counsel (ECF No. 627).

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10 DATED: June 13, 2018

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13 C.W. HOFFMAN, JR.  
14 UNITED STATES MAGISTRATE JUDGE  
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